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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/430,733	10/29/1999	NORIAKI ASAMOTO	JA9-98-146	7683

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IBM CORPORATION
3039 CORNWALLIS RD.
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EXAMINER

BUI, KIEU OANH T

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 03/12/2004

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/430,733

Applicant(s)

ASAMOTO ET AL.

Examiner

KIEU-OANH T BUI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/11/04 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 8-20 have been considered but are moot in view of the invalid ground(s) of arguments. Please note that the Applicants' arguments are invalid because Applicants cited and argued based on the reference of Herz (for the previous first non final office action), but the ground of rejection in the Final Office Action was based on the only reference of Young, not on Herz's at all.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 8-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Young et al. (US Patent No. 5,532,754/ or “Young” hereinafter).

Regarding claims 1 and 4, Young discloses a data receiving apparatus (Figs. 22A, 22B & 24 for a receiving apparatus) and its corresponding method for automatically scheduling the recording of broadcast programs without user intervention (col. 4/lines 20-47 & col. 7/line 64 to col. 8/line 8 for automatically scheduling the recording of broadcast programs during unattended recording sessions using unattended programming capability—without human intervention) comprising:

“reservation accepting means for accepting reservation requests of one or more data broadcast programs that are sequentially transmitted in groups over ones of multiple channels such that programs in different channels can overlap each other in time”, i.e., reservation is established based on customer profiles with customer’s customized programs and times for different programs in different channels can be broadcasted overlap in times (as illustrated in Figs. 1-5 for a program guide providing a grid with all different programs on different channels can be reserved for broadcasting to users based on their profiles, col. 6/lines 45-64 for program listings with overlap times, and col. 7/line 64 to col. 8/line 34 for repeat programs on different times as Lucy Shows with assigned identifier);

“a reception and storing means for recording one data broadcast at a time” (Fig. 22A/items 232 & 236 for these functions as Record Memo RAM 236 stores a requested or reserved list of recording programs of the user at the receiving device, and the schedule memory 232 manages the scheduling function, see col. 17/line 7 to col. 18/line 57 for more details on the recording function);

“grouping means for grouping the reserved data broadcast programs into one or more groups in which each group contains programs that interfere each other with respect to recording by the reception and recording means”, i.e., channels can be grouped together based on their assigned priority and even to different programs on different channels or different programs on the same channel (col. 16/lines 39-58 & col. 26/lines 15-49 for favorite channels can be also grouped);

“priority assigning means for assigning a unique recording priority to each group and to each program within a group such that all of the reserved repeating programs can be recorded in sequence according to the assigned priorities”, i.e., channels can be grouped together based on their assigned priority from the user and even to different programs on different channels or different programs on the same channel (col. 8/lines 9-34 for repeat programs can be assigned unique identifiers for sequentially recording as desired, and col. 16/lines 39-58 for priority assignment addressed).

As for claim 9, Young further discloses “comprising means responsive to a request to cancel a reserved program for re-prioritizing all remaining reservation requests” (Fig. 21/item 160 for a cancel/undo means if a request function is entered earlier, then, the canceling request causes re-prioritizing all (pending) reservation requests, col. 16/line 59-col. 17/line 7).

As for claim 10, Young further discloses “means responsive to a request to add an additional program to the reserved programs for re-prioritizing all reservation requests”, i.e., the user can add an additional program to the reserved (recording) programs if he wishes, then, the adding request causes re-prioritizing all (pending) reservation requests (Fig. 12, and col. 10/lines 38-45).

As for claim 11, Young further discloses “means for identifying reserved programs that overlap directly with each other or that indirectly overlap via another reserved program and means for placing all such directly and indirectly overlapping programs in the same group”, i.e., channels can be grouped together based on their assigned priority from the user and even to different programs on different channels, with overlap times either directly or indirectly, and to different programs on the same channel (col. 8/lines 9-34 for repeat programs can be assigned unique identifiers for sequentially recording as desired, and col. 16/lines 39-58 for priority assignment addressed & col. 4/lines 1-47 for the objective of this system and method for recording of at least two programs provided sequentially at different times on different channels).

As for claims 12-16 and 17-20, these claims for “an apparatus and a method together with a computer program product for automatically scheduling without user intervention the recording of broadcast data programs that are sequentially and repetitively transmitted in groups over one of multiple channels such that programs in different channels can overlap each other in time” with same limitations as earlier addressed are rejected for the reasons given in the scope of claims 8-11 as already discussed in details above.

Conclusion

5. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9306, (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park 99, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krista Kieu-Oanh Bui whose telephone number is (703) 305-0095. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:30 PM, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Krista Bui
Art Unit 2611
March 10, 2004

A handwritten signature in black ink, appearing to read 'K. Bui', with a long horizontal line extending to the right.

**KRISTA BUI
PATENT EXAMINER**